IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

-

WRIT PETITION NO : 15135 of 1994

Between:

1 A. Venga Muni s/o Kistappa, aged:64 yrs,
residing at Dharmavaram, Ananthapur District.
2 A. Narasimhulu s/o Kistappa, aged: 50 yrs,
residing at Dharmavaram, Ananthapur District.
3 A. Rama Murthy s/o Kistappa, 48 yrs,
residing at Dharmavaram, Ananthapur District.
4 A. Gopal s/o Kistappa, aged: 40 yrs,
residing at Dharmavaram, Ananthapur District.

..... PETITIONERS

AND

1 The Revenue Divisional Officer, Dharmavaram, Ananthapur District.
2 The Mandal Revenue Officer, Dharmavaram, Ananthapur District.
3 The Village Administrative Officer, Dharmavaram, Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, declaring the action of the 2nd respondent in issuing proceedings in Rc.No.574/94 dated 05-07-1994 relying on the note dt: 30-6-94 of Revenue Divisional Officer, 1st respondent herein as arbitrary and illegal and further restrain them from interfering with the possession of the petitioners with respect to "Addagiri Appaiah Choultry",

Counsel for the Petitioners: Mr.M.RAVINDRANATH REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

The Writ Petition has been filed seeking a direction to declare the action of the second respondent in issuing Proceedings No.Rc.574/94 dated 5.7.1994 relying on the note dated 30.6.1994 of the first respondent as illegal, improper, unjust, arbitrary and also sought a consequential direction to restrain them from interfering with the possession of the petitioners with respect to 'Addagiri Appaiah Choultry".

The case of the petitioner is that the great grand father of the petitioners has constructed a choultry in Survey No.471-5A2/A1/A1B/1A prior to 1892 and he developed the same by constructing mantapam, compound walls etc and during his life time he managed the same. Later, the management of the said choultry fell in to hands of his successors and now the petitioners are managing the same. It is stated that the said choultry belong to their family and expect their family, no one has got any interest either in the site or in the choultry. As the choultry was in dilapidated condition, they demolished the choultry with a view to construct new building.

It is stated that, at that stage, the second respondent relying on the note of the first respondent dated 30.6.1994 issued proceedings in Rc.No.574/95 dated 5.7.1994 stating that the site in which the choultry was constructed belongs to the Government and directed the petitioners to hand over the same to the third respondent. It is stated that without conducting any enquiry and in violation of the principles of natural justice, the second respondent passed order. Questioning the said order, the writ petition has been filed.

The main contention of the learned counsel for the petitioners is that their great grand fathers constructed the choultry in 1892 and later it was managed by their fore-fathers and at present they are managing the same. It is also stated that the second respondent passed orders without following the principles of natural justice.

On the other hand, the learned counsel Mr.J.Rama Chandra Rao representing the learned Government Pleader for Assignments has argued that the impugned order

has been passed after following the due procedure of law and in compliance of the principles of natural justice in view of the fact that during the enquiry, the petitioners were present before the second respondent.

A bare reading of the contents of the writ affidavit, it goes to show that the averments made in the petition are purely civil in nature and this Court cannot decide the disputed facts like who has constructed the choultry, and who is in possession and managing the said choultry etc. by this Court under Art.226 of the Constitution of India and hence this writ petition is not maintainable.

However, the petitioner is entitled to avail the remedies that are open to him before the appropriate forum within a period of three months from the date of receipt of a copy of this order. Till such time, the interim orders granted by this Court shall continue.

With the above observations, this writ petition is disposed of. No costs.

Mhn/tsy

17.6.2004

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Revenue Divisional Officer,

Dharmavaram, Ananthapur District.
2 The Mandal Revenue Officer,

Dharmavaram, Ananthapur District.
3 The Village Administrative Officer,

Dharmavaram, Ananthapur District.

4.Two CCs to G.P. for Revenue, High Court, Hyderabad (O.U.T.)

5.Two CD copies